

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SORRELL HOMES, INC.,

Plaintiff,

v.

DOUGLASS R. STILES CO. LLC, AND
DOUGLASS R. STILES,

Defendants.

Civil Action
No. 04-CV10260 WGY

AFFIDAVIT OF JOSEPH F. HARDCASTLE

I, Joseph F. Hardcastle, state as follows under the pains and penalties of perjury:

1. I am an attorney at the law firm of Hardcastle & Shober, located in Boston, Massachusetts. I am counsel for plaintiff Sorrell Homes, Inc. (“Sorrell Homes”) in this action and have personal knowledge of the matters set forth below.

2. This action involves defendants’ unauthorized infringement of Sorrell Homes’ copyrighted architectural work by constructing a New England Gambrel style house located at 4 Ridgeway Road, Wellesley, Massachusetts (the “Infringing House”).

3. On or about March 7, 2005, this Court entered Default Judgment in favor of Sorrell Homes that included an order that “Defendants be permanently enjoined from selling, leasing, renting, conveying, or using in any way the Infringing House unless and until authorized in writing by plaintiff to do so.” *See*, Docket Entry 28.

4. After the Court entered the Default Judgment, it was brought to my attention that someone appeared to be living at the Infringing House. I looked into the matter and learned that a Jon and Deirdre Smirl apparently were living at the Infringing House.

5. Upon learning that the Smirls appeared to be occupying the Infringing House, I sent a letter to them in which I informed them of the injunction issued in this action and requested that they contact me so that I could learn the nature of their arrangement for occupying the Infringing House.

6. Subsequently, I had communications with counsel for the Smirls, who ultimately forwarded to me a letter dated April 17, 2006 signed by Jon Smirl indicating that (i) the Smirls entered into a lease of the Infringing House before the injunction was issued, (ii) the lease in question permitted the Smirls to occupy the Infringing House until January 15, 2007, and (iii) the Smirls had no right to continue their occupancy of the Infringing House after January 15, 2007. A true and accurate copy of the April 17, 2006 letter is attached to this affidavit as **Exhibit A**.

7. After it recently was brought to my client's attention that the Infringing House appears to be occupied, and not having received the \$27,500.00 payment referred to in the Court's January 16, 2007 Order, I engaged in correspondence with opposing counsel in which I unsuccessfully sought information concerning the status of the Infringing House. True and accurate copies of that correspondence are attached to this affidavit as **Exhibit B**. I received no response to my April 27, 2007 letter.

I DECLARE UNDER PENALTY OF PERJURY PURSUANT TO 28 U.S.C. § 1746 THAT THE FOREGOING IS TRUE AND CORRECT. SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 14th DAY OF MAY, 2007.

/s/ Joseph F. Hardcastle
Joseph F. Hardcastle